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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207895
Party	Plaintiff Hokie Objective Onomastics Society LLC
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Attachments	HOOS - Opposer Motion for Leave to File Fifth Notice of Reliance.pdf(184089 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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HOKIE OBJECTIVE ONOMASTICS)	
SOCIETY LLC,)	
)	
Opposer,)	
v.)	Opposition No. 91207895
)	
VIRGINIA POLYTECHNIC INSTITUTE)	Serial No. 85-531,923
AND STATE UNIVERSITY,)	
)	
Applicant.)	

**OPPOSER'S MOTION FOR LEAVE TO FILE
FIFTH NOTICE OF RELIANCE**

Opposer Hokie Objective Onomastics Society LLC hereby moves the Board for leave to file its Fifth Notice of Reliance, submitted simultaneously with this Motion.

The only subject of Opposer's Fifth Notice of Reliance is Applicant's Supplemental Responses to Opposer's Third and Fourth Discovery Requests, which Applicant previously filed in this action as Exhibits 8 and 9 to its Motion to Strike (Docket No. 69). These Supplemental Responses contain Applicant's admissions and denials with respect to various documents attached to Opposer's other Notices of Reliance, including admissions and denials relevant to the authenticity and admissibility of the documents.

Opposer now recognizes that it should have filed this Fifth Notice of Reliance sooner. However, Opposer submits that this neglect was excusable because Opposer previously took the position (in which Opposer sincerely believed, and which Opposer staunchly defended in its opposition to Applicant's Motion to Strike) that the Requests for Admissions in Opposer's Third and Fourth Discovery Requests should be deemed admitted. Under this reasoning, there

would have been no reason for Opposer to rely upon Applicant's Supplemental Responses, as they would have been without legal effect. Furthermore, as detailed in Opposer's Opposition to Applicant's Motion to Strike (Docket No. 71, Ex. B), Opposer did not even see Applicant's Supplemental Responses until they were filed as exhibits to Applicant's Motion to Strike.

After the Board issued its ruling on Applicant's Motion to Strike (Docket No. 75), in which the Board held that the Requests for Admissions in Opposer's Third and Fourth Discovery Requests would not be deemed admitted, Opposer should have realized that the filing of a Notice of Reliance with respect to Applicant's Supplemental Responses was now warranted. However, due to the press of other business, Opposer's counsel did come to this realization until just recently, when in the course of preparing Opposer's Main Brief.

Opposer's counsel sincerely apologizes to the Board and to Applicant for this oversight.

Opposer submits that the filing of its Fifth Notice of Reliance should not prejudice Applicant in any way because (a) the documents included in the Fifth Notice of Reliance were all prepared by Applicant and its counsel in connection with this proceeding (apparently with great care and at considerable cost of time and effort), (b) the documents already have been of record in this proceeding since Applicant filed them together with its Motion to Strike on December 23, 2015; and (c) it is hard to conceive how Applicant's case-in-chief would have been different if the Fifth Notice of Reliance had been filed earlier, as it seems highly unlikely that Applicant would have sought to use its testimony period to contradict any of the carefully considered admissions or denials that it and its counsel had so meticulously made with respect to these various documents.

For these reasons, Opposer hereby requests that the Board grant Opposer leave to file its Fifth Notice of Reliance, submitted simultaneously with this motion.

HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC

By:



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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2016, I served the foregoing by first-class mail upon the following:

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